

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

CHARLES DAVIS, et al., individually)
and on behalf of other similarly)
situated persons,)
Plaintiffs,)
v.) No. 04-0956-CV-W-FJG
NOVASTAR MORTGAGE, INC., et al.,)
Defendants.)

ORDER

Pending before the Court are (1) the parties' joint motion to stay discovery and toll the statute of limitations pending mediation (Doc. No. 77); and (2) the parties' proposed revised scheduling order. Each will be considered below.

I. Joint Motion to Stay Discovery and Toll Statute of Limitation (Doc. No. 77)

The parties have agreed to mediate their dispute, and have set a mediation with David Rotman for June 12, 2005. The parties represent in their motion that they have agreed to toll the statute of limitations from the date the parties agreed to mediate the case (May 12, 2005) until ten days after the mediation (June 22, 2005). The tolling agreement would apply to any putative class member employed by either NMI or NMHI on or after May 12, 2005 who elects to opt into this case. The parties also request that discovery be stayed until Monday, June 22, 2005, and that deadlines for responding to outstanding discovery be tolled until that same date. The parties represent that, following mediation, they will promptly contact the Court specifying whether settlement has been reached or not. In the interest of justice, the Court **GRANTS** the parties' motion (Doc. No. 77) to allow for a stay of discovery and a tolling of the statute of limitations while the parties engage in mediation.

II. Proposed Revised Scheduling Order

On May 25, 2005, the Court held a telephonic status conference pursuant to its May 23, 2005 Order (Doc. No. 69). The parties appeared through counsel. Upon consideration of the arguments and representations of the parties, the Court sets the following schedule:

1. The parties have indicated that this matter will be mediated on June 12, 2005. The parties shall file a status report regarding mediation no later than June 19, 2005.
2. The Defendants have filed a motion to dismiss Novastar Home Mortgage Inc (NHMI) or, in the alternative, to stay all aspects of the case that pertain to NHMI pending resolution by the United States District Court for the Central District of California of the nationwide NHMI settlement before it (Doc. No. 73). Plaintiff's time to file a responsive brief to this motion is extended to June 30, 2005.
3. The Court's February 23, 2005, Order (Doc. No. 31) setting forth scheduling of briefing on Plaintiffs' Motion for Collective Action shall remain in force. Defendants shall have until June 30, 2005 to file an opposition to this motion.
4. The motions referred to in (2) and (3) will be heard contemporaneously.

IT IS SO ORDERED.

/s/Fernando J. Gaitan, Jr.

Fernando J. Gaitan, Jr.
United States District Judge

Dated: June 8, 2005
Kansas City, Missouri